

STATE PAROLE BOARD

Parole Board Rules

Suspension

Proposed Amendments: N.J.A.C. 10A:71-6.11 and 6.12

Authorized By: New Jersey State Parole Board, James T. Plousis, Chairman.

Authority: N.J.S.A. 30:4-123.48(d).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2012-011.

Submit comments by March 3, 2012 to:

David Thomas
Executive Director
New Jersey State Parole Board
P.O. Box 862
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The agency proposal follows:

Summary

The State Parole Board previously established as a general condition of community supervision for life, N.J.A.C. 10A:71-6.11(b)22, and parole supervision for life, N.J.A.C. 10A:71-6.12(d)24, the requirement that an offender refrain from using any computer and/or device to create any social networking profile or to access any social networking service or chat room in the offender's name or any other name for any reason unless expressly authorized by the district parole supervisor. Though establishing the general conditions, the Board did not define the term social networking service or chat room. The proposed amendments provide for a definition of social networking service, Internet website or application, chat room and peer-to-peer network.

The notice of proposal is not subject to the calendar requirement of N.J.S.A. 52:14B-3(4) and N.J.A.C. 1:30-3.3(a) because the Board has provided a 60-day comment period and, therefore, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments provide a definition of certain terms reflected in a general condition that applies to offenders who are serving a special sentence of community supervision for life or a special sentence of parole supervision for life. The definitions should provide clarification to offenders and to the personnel of the Division of Parole as to the conduct that an offender is to avoid to insure the offender's compliance with the general condition of supervision.

Economic Impact

The State Parole Board does not believe that additional funding is necessary as the proposed amendments merely provide for a definition of certain terms that presently exist in a general condition of community supervision for life, N.J.A.C. 10A:71-6.11(b)22, and parole supervision for life, N.J.A.C. 10A:71-6.12(d)24.

Federal Standards Statement

The proposed amendments are not proposed under the authority of or in order to implement, comply with, or participate in any program established under Federal law or under State statute that incorporates or refers to Federal law, standards or requirements. An analysis of the proposed amendments pursuant to Executive Order No. 27 (1994), P.L. 1995, c. 65 is, therefore, not required.

Jobs Impact

The proposed amendments pertain to defining certain terms that presently exist in a general condition of supervision applicable to offenders serving a special sentence of community supervision for life or a special sentence of parole supervision for life. It is not anticipated that any jobs will be generated or lost if the proposed amendments are adopted.

Agriculture Industry Impact

The proposed amendments will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed amendments impose no reporting, recordkeeping, or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments pertain to defining certain terms that presently exist in a general condition of supervision applicable to offenders serving a special sentence of community supervision for life or a special sentence of parole supervision for life.

Housing Affordability Impact Analysis

The proposed amendments pertain to defining certain terms that presently exist in a general condition of supervision applicable to offenders serving a special sentence of community supervision for life or a special sentence of parole supervision for life. The proposed amendments will, therefore, have no impact on housing units or the increase or decrease in the average cost of housing.

Smart Growth Development Impact Analysis

The proposed amendments pertain to defining certain terms that presently exist in a general condition of supervision applicable to offenders serving a special sentence of community supervision for life or a special sentence of parole supervision for life. The proposed amendments will, therefore, have no impact on smart growth or housing production or the increase or decrease in the average cost of housing in Planning Areas 1 or 2, or in designated centers, under the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**):

SUBCHAPTER 6. SUPERVISION

10A:71-6.11 Community supervision for life

(a) (No change.)

(b) The special sentence of community supervision for life shall commence pursuant to N.J.S.A. 2C:43-6.4(b) upon the completion of the sentence imposed pursuant to the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq. An offender serving a special sentence of community supervision for life shall be supervised by the Division of Parole as if on parole and subject to any special conditions established by the appropriate Board panel and to the following general conditions. The offender shall:

1.-21. (No change.)

22. Refrain from using any computer and/or device to create any social networking profile or to access any social networking service or chat room in the offender's name or any other name for any reason unless expressly authorized by the district parole supervisor.

i. **"Chat room," as used in this paragraph, means any Internet website through which users have the ability to communicate via messaging and which allows messages to be visible to all users or to a designated segment of users.**

ii. **"Internet website or application," as used in (b)22iv below, means an Internet website or application that allows users, through the creation of Internet web pages or profiles or other similar means, to provide personal information to the public or other users of the Internet website or application, and facilitates online social interactions by offering a mechanism for communication with other users of the Internet website or application. An Internet application shall include any program utilized in conjunction with a mobile or electronic device that permits access to a social networking service.**

iii. **"Peer-to-peer network," as used in (b)22iv below, means a connection of computer systems whereby files are shared directly between the systems on a network without the need of a central server.**

iv. **"Social networking service," as used in this paragraph, includes any Internet website or application, chat room, or peer-to-peer network, that:**

(1) Contains profile pages of the members of the social networking service that include the names or nicknames of such members, photographs placed on the profile pages by such members, or any other personal or personally identifying information about such members and links to other profile pages on social networking service of friends or associates of such members that can be accessed by other members of or visitors to the social networking service;

(2) Provides members of or visitors to such social networking service the ability to leave messages or comments on the profile page that are visible to all or some visitors to the profile page;

(3) Provides members of or visitors to the social networking service the ability to engage in direct or real time communication with other users, such as a chat room or instant messenger; or

(4) Provides a form of electronic mail for members or visitors to the social networking service. For the purpose of this definition, social networking service does not include the use of e-mail exclusively for person to person communication.

(c)-(n) (No change.)

10A:71-6.12 Parole supervision for life

(a)-(c) (No change.)

(d) An offender sentenced to a special sentence of parole supervision for life shall comply with the following:

1.-23. (No change.)

24. Refrain from using any computer and/or device to create any social networking profile or to access any social networking service or chat room in the offender's name or any other name for any reason unless expressly authorized by the district parole supervisor.

i. "Chat room," as used in this paragraph, means any Internet website through which users have the ability to communicate via messaging and which allows messages to be visible to all users or to a designated segment of users.

ii. "Internet website or application," as used in (d)24iv below, means an Internet website or application that allows users, through the creation of Internet web pages or profiles or other similar means, to provide personal information to the public or other users of the Internet website or application, and facilitates online social interactions by offering a mechanism for communication with other users of the Internet website or application. An Internet application shall include any program utilized in conjunction with a mobile or electronic device that permits access to a social networking service.

iii. "Peer-to-peer network," as used in (d)24iv below, means a connection of computer systems whereby files are shared directly between the systems on a network without the need of a central server.

iv. "Social networking service," as used in this paragraph, includes any Internet website or application, chat room, or peer-to-peer network, that:

(1) Contains profile pages of the members of the social networking service that include the names or nicknames of such members, photographs placed on the profile pages by such members, or any other personal or personally identifying information about such members and links to other profile pages on social networking service of friends or associates of such members that can be accessed by other members of or visitors to the social networking service;

(2) Provides members of or visitors to such social networking service the ability to leave messages or comments on the profile page that are visible to all or some visitors to the profile page;

(3) Provides members of or visitors to the social networking service the ability to engage in direct or real time communication with other users, such as a chat room or instant messenger; or

(4) Provides a form of electronic mail for members or visitors to the social networking service. For the purpose of this definition, social networking service does not include the use of e-mail exclusively for person to person communication.

(e)-(v) (No change.)